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Rehabilitation or Social Isolation? The State's Struggle with Juvenile Sex Offender Laws

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Submitted in Partial Completion of the
Requirements for Departmental Honors in Criminal Justice

Bridgewater State University

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Chapter 1: Introduction

In 2006, a new federal sex offender law was passed that would change the way the criminal justice system approached sex crimes. This new law replaced the Wetterling Act, and is known as the Adam Walsh Act (AWA). The AWA is similar to the Wetterling Act, however, the new law has a harsher way of dealing with offenders. This thesis will focus solely on juvenile sex offenders. It will also focus on the juvenile justice system and its' close, but yet negative relationship with the AWA.

The AWA and the legal harm it does to the juvenile justice system is an important topic to research. The original goals of the juvenile justice system were imperative to a juveniles well-being, and the rehabilitation options had an impact on the future for different generations. The thought was, crimes a juvenile commits during their adolescent years should not hold them back if they were to become a positive member of society later in life. However, the AWA ignores this by giving harsh punishments to young adolescents.

This issue effects current and future generations of juveniles. The juvenile justice system was designed to give adolescents a second chance but the AWA contradicts this by stigmatizing juveniles who are prosecuted for certain offenses as sex offenders. This stigmatization can last with a sex offender for a distinct portion of their life, and can have several negative consequences on someone (Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking, 2015).

Originally, the juvenile justice system attempted to rehabilitate adolescents who were adjudicated delinquent. However, these attempts shifted when the AWA was passed. Specific guidelines will be reviewed in hopes of learning how the juvenile justice system transformed to a new perspective on how to legally process adolescents.

Each chapter of this thesis has a different goal. First, the juvenile justice system will be reviewed, to outline specific changes that have been made from it's beginning to present day (Rosenheim, Zimring, Tanenhaus, & Dohrn, 2002). The juvenile justice system and the AWA are related because this federal law requires any juvenile adjudicated over the age of fourteen of a serious sex offense to register as a sex offender. Requiring juvenile offenders to register at a young age is one example.

Specific changes to the juvenile justice system include how juveniles are prosecuted. Adolescents are more likely to be sent to adult criminal court today than they were when the juvenile justice system was first created. This change in prosecuting juveniles is one example of the shift in how adolescents are treated. This change is also related to the AWA due to the law following suit with treating juveniles not because of their age, but because of the crime they committed.

Another change to the juvenile justice system is how some states no longer shield juveniles' records. The system was created to protect juveniles and shielding their record from the public was one way that was done. However, with the AWA being in effect, some states put juvenile sex offenders on their online sex offender registry for the public to view. By a juveniles' information being readily available to the public, this is just one way that stigmatization can begin. A shift in the juvenile justice is evident by no longer shielding records of juvenile offenders, and transfers to adult criminal court.

A topic of importance is adolescent sexual development. Adolescents are sexually curious, and as years go by research and recent cases have been demonstrating that. To that end, the AWA and some states have made questionable decisions when determining what sex

offenses are registerable for juveniles and what are not. For example, some states register juveniles who are adjudicated delinquent of sexting.

The literature review will conclude with an in depth overview of the AWA. This chapter is significant because without the real understanding of this federal policy than it may be difficult to recognize the tension and disconnect it causes with the juvenile justice system. Specific guidelines will be reviewed, for example, the AWA does allow some sex offenders to be removed from the registry before their required term is up.

This policy analysis will be organized by creating 50 tables with one for each state. The tables will consist of eight guidelines from the AWA. The tables will also represent compliant and non-compliant states. This will help reveal any patterns among the states, and if there is any connection as to why states do not comply. The tables will allow me to make any connections between the compliant and non-complying states.

There are thirty-three states that do not comply with the federal law. This is an overwhelming amount that do not comply, and by reviewing several types of reports from the states it is in hopes that there is an underlying reason that will be discovered. This is relative to the issue of juvenile sex offenders because the states that do not comply may do so because of the mandates upon them. Not all states have made a severe shift in treating juvenile offenders.

The large number of non-complying states (n=33) that do not comply with the AWA demonstrate a separation of federal and state law. The federal government passed this sex offender law, however, the states that do not comply display a disconnect. This disconnect could demonstrate several different things that this thesis will elaborate more on in the following chapters. A question that this thesis will seek to answer is whether or not the juvenile sex offender mandates and guidelines fuel that disconnect. The disconnect between federal and state

relates to the juvenile justice system because the non-complying states may still be in favor of rehabilitating juveniles compared to punishment.

Professionals have made comments within the last few years on this topic. A majority have expressed that the stigmatization of labeling a young adult is not in line with the juvenile justice systems beliefs and intents, and may actually be harmful to the juvenile. There will be a section in a chapter going into more details about how some professionals feel about this, and if anything can be done to improve this issue.

The philosophy of the juvenile justice is important to understand before continuing reading this thesis. Rehabilitation was the focal point and goal of the system, but more importantly it was to protect the children and adolescents. A separate court system was created, different sentencing options, juveniles were not convicted but instead they were adjudicated delinquent. The original unique approach to handling young offenders is important to recognize and appreciate because this system was created for a reason. This thesis will attempt to discover why this noticeable shift of how juvenile offenders are treated has occurred, and to see if the AWA is a possible cause. My research question is how did states' address to the 2006 federal mandate within the AWA requiring them to register some adolescents as sex offenders?

Chapter 2: Creation, History, and Evolution of Juvenile Justice

Creation

The Child Savers Movement. The child savers movement of the early 20th century was created to advocate for a different cultural and legal approach to delinquent juveniles.

Simultaneously, but independent of the child savers movement was the development of psychology as a social science. Both factors influenced the understanding of adolescents and the development of the juvenile court (Platt, 1969).

At the time of the child savers movement, immigrants had flooded cities in the Northeast, with many families suffering financially. Some of the families were without work, and came to America in hopes of creating a better life for themselves and their children. The true advocates of the child savers movement were white, middle-class women whose primary role was taking care of children. At this time, women did not play a large role in the political circles, therefore their main goal was to look after and raise children. The reformers involved advocated for better lives for children from poor families, and attempted to make education a priority (Platt, 1969).

The 1899 Illinois juvenile justice act. Juveniles are distinctly different from adults, particularly developmentally, cognitively and emotionally. In response to these differences between adolescents and adults, the juvenile justice system was created. The first recognition of these legal differences occurred in 1899 when the state of Illinois passed the Juvenile Justice Court Act.

The 1899 Illinois Juvenile Justice Court Act separated juvenile and adult offenders, giving them different legal proceedings. Prior to this act, adolescents were sentenced similarly to adult offenders. The purpose of this act was to designate a system solely for juvenile offenders,

and to provide adolescents with rehabilitation to avoid becoming adult criminals (Bostwick, 2010).

This system required private adjudicatory hearings and did not allow press in the courtrooms. A juveniles' criminal records were only available to law enforcement. Also, the court strived to protect children from harsh sentences, and from adult criminal court. Juvenile court judges had the discretion to remove neglected children from their houses, and move them to a safer environment. A judges' role was to consider the well-being of the child. A juvenile court judge could remove a child from their home and place them in an industrial school until they reached adulthood if they felt it was necessary. *Parens patriae* is when the government can step in and protect the rights of children when the parents are unable to do so (McNamara, 2008; Champion, Merlo, & Benekos, 2013; Rosenheim Zimring, Tanenhaus, & Dohrn, 2002).

The juvenile court differed from criminal court in numerous ways. An adjudicatory hearing is only in juvenile court, and would be known as a trial in adult criminal court. An adolescent is not found guilty in juvenile courts, rather they are categorized as an adjudicated delinquent. A juvenile does not attend a sentencing hearing like adult offenders do, whereas they have a disposition hearing (Champion, Merlo, & Benekos, 2013).

Status offenses were originally created so children from a low socio-economic community could have laws just for them. Before these offenses existed, children did not have to attend school, did not have a curfew, and could drink alcohol. There was no legal way of reprimanding them. There were children on the streets doing whatever they could to survive. A status offense is only applicable to juveniles. Truancy, which is skipping school frequently, is an example of a status offense. Running away from home can also be categorized as a status

offense. Trying to prevent juvenile offenders from being adult criminals was a motivating factor in creating status offenses (Platt, 1969).

History

For most of the 20th century, the juvenile justice system was the primary system for adolescents. Prior to this system, adolescents were viewed as miniature adults and property of their parents. In the early 20th century, there were other policy changes intended to distinguish young offenders from their adult criminal colleagues (Hinton, Sims, Adams, & West, 2007).

The house of refuge movement was a strategy created by reformers to place juveniles in a safer environment than adult jails. The houses would also manage runaways and status offenders (Champion, Merlo, & Benekos, 2013). The first reformatory was built in 1825 in New York City. As this approach became popular, more reformatories were built around the country (Hinton, Sims, Adams, & West, 2007).

In 1909, the Juvenile Psychopathic Institute was founded in Chicago, Illinois. This was the first step in recognizing that some juveniles needed mental health assistance. It was during this time frame that research was published to articulate differences juveniles suffering from mental health issues, and those exhibiting delinquent behavior (Hinton, Sims, Adams, & West, 2007).

An important point to focus on is the intentions of this system. Different parts of the system work together to enforce the many needs of an adolescent. It is important to understand this because it will make noticing the changes in how juveniles are treated presently compared to when the system was first created.

Late 20th Century (1960's – to present) Changes

1960-70's changes in the juvenile justice system. While it is stated that the juvenile justice system is separate from adult criminal court, there are still some overlaps. The juvenile justice system was fairly new at this time, and had much room for improvements and changes. However, these improvements are typically a result from trial and error, and possibly poor outcomes for adolescents.

Gerald Gault was a fifteen-year-old boy who was ordered to live in a reform school for roughly six years for making an explicit phone call. At this time, juveniles were not appointed lawyers, so Gault had no attorney advocating for him. Gault was not given the opportunity to question any witnesses, and was now allowed to appeal his sentence. His case made it to the United States Supreme Court (USSC), and was titled *In re Gault* 387 U.S. 1 (1967). Gault's conviction was overturned by the USSC due to him being denied these rights (Barkan & Bryjak, 2011).

In re Gault (1967) was a turning point for the juvenile justice system. The rights that Gerald Gault was denied are the basic rights that are given to adult offenders in adult criminal court. As mentioned previously, the juvenile justice had room for improvement, and this case did just that. However, in doing so it also made the juvenile court more similar to adult court. Affording juveniles adult rights is a double edged sword. Good in some way, but detrimental in others (Barkan & Bryjak, 2011).

Another change that took place was the 1974 Juvenile Justice and Delinquency Prevention Act. United States Congress passed this Act to separate juvenile and adult offenders in holding facilities. Prior to this act, any juvenile who was found truant, ran away from home or was involved with minor offenses could possibly have been sent to the same facilities as adults. This became an issue because of the stigmatization that was being portrayed on youth offenders.

When a juvenile is sent to a detention facility, there is a larger possibility that they will be labeled. Labeling theory directly discusses this, and will be introduced later in the thesis (Barkan & Bryjak, 2011).

1980-90's juvenile violent crime and the super-predator myth. During the 1980's to the 1990's, there was an increase in juvenile crime (Brown, 2015). Between 1987 and 1994, the arrest rate for juveniles committing serious violent crimes increased 70%. Homicide, rape, robbery, murder, and aggravated assault are categories of serious violent crimes. During this time, the rate at juveniles committed murders doubled. Aggravated assault increased 79%, as well as robbery with 68% (Farrington & Loeber, 2002).

A 1999 national report published by the Office of Juvenile Justice and Delinquency Prevention, demonstrated that juvenile violent crime arrest rates were at their highest in 1997. Simultaneously, law enforcement also started arresting juveniles for status offenses like curfew violations. Also, drug abuse among juveniles nearly doubled between 1992 and 1996, particularly use of marijuana. In response, lawmakers felt responsible to pass new laws to hold juveniles accountable for their crimes (Bilchik, 1999).

Due to the crime rate that spiked in the late 1980's and early 1990's, some juveniles were being called super-predators. A super-predator was a name that described a generation of juveniles that committed heinous crimes articulated by John J. DiIulio Jr. (Becker, 2001). DiIulio, who was a professor at Princeton University in the political science department, also predicted that the next generation of juvenile was going to be even worse, and would commit harsher crimes (Howell, 2009). These statistics were what fueled the super-predator myth, leaving legislatures to question their capability to handle the problem at hand (Bilchik, 1999).

The super-predator myth became popular in the 1980's to 1990's. It became known to legislators, who then felt it was necessary to create harsher laws for juveniles, and transfer more adolescents to adult criminal court. The super-predator myth was partially supported by data. Violent crime arrest rates of juveniles changed little between 1973 and 1980's. They rose in 1993, and declined by 1997 (Bilchik, 1999).

As time went on, many criticisms of the super-predatory theory came about. DiIulio Jr. has said that if he could withdraw this argument, he would (Becker, 2001). This myth frightened people, and also categorized juveniles as out of control and unable to change. In response to the super-predator myth, numerous states increased the ways in which adolescent offenders could be tried as adults. One method was to modify the waiver process.

Adult Prosecution and Waivers

The process of transferring juveniles to adult courts occurs either as waivers, prosecutorial discretion and/or statutory exclusions. These three types of waivers have different guidelines, and vary from state to state. Depending on the waiver, the decision-makers are typically the juvenile court judge, the prosecutor and the state legislature (Snyder, Sickmund, & Poe-Yamagata, 2000).

For judicial waivers, a hearing is held in juvenile court and the judge decides if the adolescent would be transferred to criminal court. There are three type of judicial waivers, discretionary, mandatory, and presumptive (Champion, Merlo, & Benekos, 2013). This waiver is limited by age, the category of the offense and whether or not the juvenile may respond to treatment. In some states, the judicial waiver is not an option due to the age limit in juvenile court (Snyder, Sickmund, & Poe-Yamagata, 2000).

A judicial discretionary waiver gives the judge the discretion to transfer adolescents to adult criminal court. A mandatory judicial waiver is when the judge is required to waive jurisdiction of the juvenile court, depending on the adolescents' age and the type of crime committed. Lastly, a judicial presumptive waiver gives the power to the juvenile. The juvenile must prove they are capable of being rehabilitated, otherwise the adolescent would be sent to adult criminal court (Champion, Merlo, & Benekos, 2013).

Statutory exclusions exist because some states have decided that certain juveniles (e.g., those over fourteen and charged with first degree murder) should be automatically sent to adult criminal court. This type of exclusion exists for the most heinous and vicious crimes. In Georgia for example, if a juvenile is charged with murder at the age of thirteen, they are out of the juvenile courts jurisdiction and automatically sent to adult criminal court (Champion, Merlo, & Benekos, 2013, Snyder, Sickmund, & Poe-Yamagata, 2000).

The prosecutorial waiver, also known as direct file, gives prosecutors full discretion as to whether or not to try a juvenile in adult criminal court. Even though there is no judicial review, there are guidelines for prosecutors to decide which court to charge a juvenile in. The age of the juvenile, criminal history, if any, and the seriousness of the crime are some factors a prosecutor will consider when deciding where to try a juvenile (Champion, Merlo, & Benekos, 2013).

The National Academy of Sciences published a study on adolescent development in 2013. Even though there are developmental differences between adolescents and adults, it does not mean that juveniles are not capable of committing heinous crimes. The findings of this study emphasize the importance of the research demonstrating differences between adolescent and adult offenders (Monahan, Steinberg, & Piquero, 2015). Within the last twenty years, the United States Supreme Court has begun to consider these differences, and use it in their decisions.

The United States Supreme Court (USSC)

In the late 20th and early 21st centuries, state legislatures, judges, and prosecutors were not the only political actors interested in juvenile justice issues. In the early 2000's, the United States Supreme Court announced several decisions essentially rebuking the 1990's trend of increasingly punitive juvenile justice. The first of these decisions was the 2005 case, *Roper v. Simmons* (2005).

On September 8, 1993, Christopher Simmons planned and executed a murder against Shirley Crook in Missouri. At the time of the murder, he was seventeen years old. As he was charged and convicted of first degree murder in adult court, the death penalty was a sentencing option in this case. Simmons was convicted and sentenced to death (Kennedy, 2005).

Simmons' attorneys appealed the death penalty for years following his conviction. At this time, sixteen and seventeen year olds could be sentenced to the death penalty. The Missouri Supreme Court affirmed Simmons sentence, and found it constitutional (Kennedy, 2005). Simmons' counsel then appealed his case to The United State Supreme Court.

The Supreme Court ruled in *Roper v. Simmons* (2005), overturning The Missouri Supreme Court, that it was unconstitutional to sentence a person to death who was under eighteen at the time of the crime. As a result of this decision, Christopher Simmons was resentenced to life without the possibility of parole (Kennedy, 2005).

Justice Anthony Kennedy delivered the majority opinion for *Roper v. Simmons* (2005). Justice Kennedy stated that juveniles under the age of eighteen were less responsible for their crimes. In comparison to a twenty-five-year-old, Kennedy wrote that it was difficult for a seventeen-year-old to think critically because they were not fully cognitively developed (Kennedy, 2005).

Justice Kennedy also stated how it was difficult for an adolescent to escape their surroundings, and that juveniles were more vulnerable than adults. He argued that adolescents should be held less responsible than adult offenders because of less control over surrounding influences. Justice Kennedy also stated that a juveniles' identity is one that could evolve over time. A juvenile who commits murder at seventeen might not be the same person at thirty years old (Kennedy, *Roper v. Simmons*, 2005).

Roper v. Simmons (2005) was a turning point for the juvenile justice system. This decision articulated a clear distinction by the majority that juveniles could not be held accountable for an execution even for heinous violent crimes. The United States Supreme Court's jurisprudence lessening adult punishments for kids did not stop with this decision. This would extend this thinking with their decision in *Miller v. Alabama* (2012).

In Alabama in 2003, fourteen year-olds Evan Miller and Colby Smith were smoking marijuana and drinking alcohol with Cole Cannon in his trailer. As the night proceeded, Cannon fell asleep. Miller and Smith decided to take Cannon's wallet and split the money between them. However, Cannon woke up during the robbery (Kagen, 2012). Cannon woke up and grabbed Miller by the throat, but Smith hit him over the head with a baseball bat. Miller then grabbed the bat from his friend and repeatedly struck Cannon over the head with it. The boys left Cannon bleeding on the floor of his trailer. Later, the two boys returned and set Cannon's trailer on fire, killing him as he was inside (Kagen, 2012).

Alabama law required Miller to be tried as a juvenile, but the original prosecutor felt the boy was more fit for adult criminal court. The juvenile court agreed, and Miller was transferred to adult criminal court. Miller was tried as an adult, and charged with murder in the course of

arson. This conviction had a mandatory sentence of life without the possibility of parole (Kagan, 2012).

Miller's attorney appealed his sentence, but the Alabama Court of Criminal Appeals affirmed, stating it was not overly harsh for the crime committed. Miller's case made its way to the United States Supreme Court, where the sentence was ruled unconstitutional (Kagan, 2012).

Justice Elena Kagan delivered the majority opinion for *Miller v. Alabama* (2012). Justice Kagan stated that there was no consideration of the boy's age when he was sentenced. She also stated that there was no consideration to the fact that juveniles can change, due to their young age. Justice Kagan felt punishing an adolescent to a mandatory life without the possibility of parole sentence violated the eighth amendment, via cruel and unusual punishment (Kagan, 2012).

The ruling in *Miller v. Alabama* (2012) did not permanently remove the sentence of life without possibility of parole for juvenile offenders. However, Justice Kagan felt this sentence should be given on an individual basis, and to consider the factors of the case. This decision would give adolescents the objectiveness they deserve, versus mandatory sentences that dictate the rest of their life.

The decision in *Miller v. Alabama* (2012) supports the original reason behind the juvenile justice system. Instead of transferring juveniles to adult criminal court, and giving them the same sentences adults receive, all efforts should be made to rehabilitate juvenile offenders.

A more recent case affirming the *Miller v. Alabama* (2012) ruling was *Montgomery v. Louisiana* (2016). In 1963, Henry Montgomery at the age of seventeen murdered a deputy sheriff in Louisiana. Montgomery was convicted in adult criminal court, and found guilty. This

conviction also had an automatic sentence of life without the possibility of parole (Kennedy, 2016).

In the Supreme Court case *Montgomery v. Louisiana* (2016), the justices decided that their prior decision in *Miller v. Alabama* (2012) was retroactive. *Montgomery v. Louisiana* (2016) did not require all states to resentence every juvenile sentenced to life without possibility of parole. However, this decision gave inmates a chance to petition for a new sentence, and potentially parole (Kennedy, 2016).

Justice Kennedy wrote the majority opinion in *Montgomery v. Louisiana* (2016). Kennedy stated mandatory juvenile life without possibility of parole sentences did not allow adolescent offenders a meaningful opportunity to show their growth and maturity since the time of their crime. Also, automatic sentences did not factor in potential decades of incarceration and its effect on juvenile rehabilitation (Kennedy, 2016).

The Supreme Court cases previously explained are examples of changes made to the juvenile justice system within the last fifteen years. Taking away the mandatory sentence of life without the possibility of parole for juveniles was a major turning point. These decisions are a departure from the legislative trend of punitive punishment. The recent United States Supreme Court rulings are more aligned with the historic views on juvenile criminals. Yet, the dominant policy of juvenile sex offenders is the Adam Walsh Act passed in 2006, which arguably treats adolescent and adult criminals the same.

To conclude this chapter, it is important to recognize the transformations the juvenile justice system has made over the last few decades. Starting with the Child Savers Movement, there was a group of women who decided it was time to take care of the youth in this country.

This was a big leap and had a tremendous impact on the beginning of the juvenile justice system which came years later.

Up until the 1990's when transferring juveniles to adult criminal court occurred more often, the juvenile court was functioning at to rehabilitate and care for juvenile in line with it's original goals. This leads to the passage of the AWA in 2006, and the treatment and the treatment of juveniles similarly adults became more prominent than ever. As previously mentioned, the original purpose of the juvenile justice system was to rehabilitate adolescents. Not only does the AWA undermine that, but it ignores research findings that show differences between adolescents and adults.

Chapter 3: Adolescent Sexual Development

Normative Sexual Behavior

Recently, there has been expanding research on the sexual behavior of adolescents. This research seeks to understand normal and deviant behavior amongst teenagers, specifically sexual. By reviewing research findings and looking at current statistics of sexually active adolescents, this chapter will explain what is perceived as normal or deviant.

Normative sexual behavior amongst adolescents does not have a clear and exact definition. This may be due to the fact that the definition of normal changes from culture to culture, and even environments. For this chapter, the term environments could mean where an adolescent lives (i.e. a community), or the high school they attend. Also, norms can change depending on what group of friends an adolescent belongs to.

Norms are standards of beliefs, and also behaviors that are upheld by a society or community (Worthen, 2016). Norms are important to understand because without them, deviance could be a wide range of things. For this section of the chapter, the norms that will be described are regarding sexual behavior among adolescents.

The acceptance of sexual behavior between adolescents has evolved and changed throughout the past decades. This could be due to evolving empirical research on adolescents and their sexual curiosity and behavior, or adults becoming more accepting of this. Peers and their influence has a lot to do with adolescent sexual activity.

This new acceptance of adolescent sexual behavior has allowed new norms to come about. Although, the question to ask is whether or not teenagers have been having sex for many years and research did not study it? Newer research studies from the twenty first century have been studying this behavior, and they show that teenagers are sexually active.

Worthen (2016) wrote that it is more common that teenagers engage in oral sex more so than sexual intercourse. This is due to a few different reasons. It is normal for a young teenager to want to save their virginity and wait. Also, teenagers are aware that is safer to just have oral sex versus intercourse. Oral sex prevents pregnancy and a number of sexually transmitted diseases.

It is widely assumed that adolescents engage in sexual activity due to peer pressure, however, that perception is incorrect. It is normal for adolescents to have sex at a young age to merely fit in, and act similarly to their friends. In other words, if there are two best friends and only one is having sex, the other may do so simply because his/her best friend is doing that. The actual “peer pressure” is absent and is typically not the reason why adolescents are having sex anymore (Worthen, 2016).

Worthen (2016) discussed how many adolescents were actually having sex in America. At age sixteen, 35% of boys and 32% of girls were having sexual intercourse. At age seventeen, 49% of boys and 47% of girls were having sex. Lastly, at age eighteen, 61% of boys and 60% of girls were having sex. These statistics are relative to the new norms for sexual behavior among teenagers. However, for some areas of the country, teenagers having sex may not be part of the norm and could be involved in deviant sexual behavior (Finer & Philbin, 2013).

Deviant Sexual Behavior

In regards to any deviant behavior, it is legally referred to any illegal acts committed by a person. This chapter seeks to explain deviant adolescent sexual behavior. Definitions may vary though depending on three topics, specific types of behavior, specific types of people and specific types of people (Worthen, 2016). Deciding what type of behavior is deviant includes a lot of discretion when states create laws.

This pertains to the AWA because states were given discretion on whether or not to add crimes less than sexual assault to be considered registerable, such as statutory rape. And the question is, whether or not adolescents engaging in sexual intercourse or oral sex at a young age is consider “deviant”. There are teenagers who commit heinous acts such as molestation or having sex with a young child, and for this chapter those acts are to be considered deviant. Although, those are extreme instances and are most likely a given that most of the population would agree that those are deviant sex crimes for any person to commit, including a teenager.

The question still remains on what is considered to be deviant. As mentioned previously, there is a lot of gray area when studying whether teenagers having sex is deviant or out of the norms.

Sexting

Adolescent dating and curiosity has changed throughout the years. The use of technology has helped create a new norm for adolescents and young adults. In today’s world, it is common for a teenager to have a cellphone. As of 2015, 73% of adolescents have access to smartphones (Pew Research Center, 2015).

Teenagers use their cellphones and social media as the main source of communicating not just with their peers, but with their romantic attachments. This gives adolescents a new way to express their sexuality. One such expression is the practice of sexting.

Sexting is the electronic sending or receiving of a nude or sexually explicit image or movie of a known party. When an adolescent sexts it can violate child pornography laws, as these images are of minors under the age of eighteen. The sending and sharing of these photos pertains to the AWA because if a juvenile is convicted or adjudicated delinquent of child pornography charges, they may have to register as a sex offender. Within the last ten years, there

have been studies conducted to determine how often teenagers sext and whether this is a new normative or deviant sexual practice.

In 2008, a study was conducted by the National Campaign to Prevent Teen and Unplanned Pregnancy. The sample population consisted of 1,280 people. Specifically, there were 653 teenagers aged 13-19, and 627 young adults ranging from 20-26 years old. Twenty percent (20%) of teenagers had sent or posted nude or half-nude photos or videos of themselves via cell phone or social media. It appeared that most of the teenagers who did sext sent the photos to their boyfriends or girlfriends. Also, fifteen percent (15%) of the teenagers in this study sent sexually explicit photos to someone they only knew online (Lounsbury, Mitchell, & Finkelhor, 2011).

In 2009, another study was conducted by COX Communications. There were 655 teenagers aged 13-18 in this study. It was discovered that 19% of teenagers had partaken in sexting. Teenage girls (65%) were far more likely than boys (35%) to send the image or movie. The study also revealed that about one in ten participating teenagers said they sexted someone they did not know, and 18% of the receivers did not have a known relationship to the sender (COX Communications, 2009).

There are some limitations to the studies that have been previously explained, as they are eight and nine years old. Technology has made significant advancements since 2009. Although, the federal and state laws that pertain to this type of activity of teenagers have not evolved. Brianna Denson and Cormega Copening's case is a recent example of this.

In 2015, the Cumberland County Sheriff's Office investigated allegations of statutory rape at Douglas Byrd High School in Fayetteville, North Carolina. While the officers were not able to confirm any cases of statutory rape, they discovered nude photographs of Brianna Denson

and Cormega Copenig in each other's cellphones. Denson and Copenig were sixteen years old at the time (Miller, 2015).

In North Carolina, the minimum age to be prosecuted in adult criminal court is sixteen years old. However, in this state a person has to be over eighteen years old to disseminate and receive indecent photographs, videos or text messages to avoid child pornography prosecutions. North Carolina is one of the seventeen states that has been found in compliance with the AWA. Denson and Copenig were arrested in February of 2015 (Miller, 2015).

Copenig was charged with five felony counts of sexually exploiting a minor. Two counts for the nude pictures of himself, two counts for distributing them to his girlfriend Denson, and one for being in possession of a sexually explicit photo of Denson on his cell phone. Denson was charged with two felony counts of sexual exploitation of a minor, first for taking a nude photograph of herself, and secondly for disseminating it to Copenig. Considering these are felony charges, if convicted they faced potential prison time. Also, because North Carolina is in compliance with the AWA, they both may have to register as sex offenders (Miller, 2015).

As noted previously in this paper, the AWA potentially applies to any juvenile over the age of fourteen. This federal law does not yet distinguish between consensual sexual acts and sexual violence among teenagers. Some of the seventeen states that comply with the AWA register juveniles adjudicated delinquent for sexting.

Florida, Missouri and Nevada are examples of three states that are compliant with the AWA and register juveniles for sexting. The legal term for sexting in Nevada is pornography including minors. Sexting is not the only consensual act that some states have made an AWA registerable offense. Statutory rape is another consensual sexual interaction among adolescents that has been criminalized by the AWA (Miller, 2015).

Statutory Rape

Statutory rape laws were originally created for different reasons, and have been a law in the criminal justice system for many years. These laws were originally created to be a form of deterrence for adolescents. It was thought that if there was a law against having sex, then teenagers wouldn't do it. However, an adolescent's sexual curiosity and sex drive was ignored when passing statutory rape laws (Price, 2015). An adolescents' sexual curiosity combined with their known impulsiveness can lead engagement in sexual activity, however, this is illegal.

Massachusetts is a state that has two different statutory rape laws in effect for different ages. If a person engages in sexual intercourse with someone under the age of fourteen, it is titled indecent assault and battery on child under fourteen. Anyone convicted or adjudicated delinquent of this crime is subject to a sentence of no more than ten years in prison, or the house of corrections for two and half years. If somebody pursues sexual intercourse with someone under the age of sixteen, that offense is titled rape and abuse of a child. However, this offense has a more punitive punishment than if someone is convicted of having sex with a child under fourteen years old. If a person is convicted or adjudicated delinquent of having sex with someone under the age of sixteen, there is a possible sentence of life in state prison (Massachusetts Court System, 2017).

Florida statutory rape law states anyone eighteen years or older who commits a sex offense against a person who is twelve years of age or older is committing a felony in the first degree. Florida and Massachusetts are two examples of states that have statutory rape laws for adolescents having sexual intercourse in their teenage years (Florida Legislature, 2016).

It was viewed that adolescents were not able to make the mature decision to partake in sexual activity. The age of consent varies state by state, however, it generally ranges from 16, 17

and 18 years old. Massachusetts is an example of a state that has a minimum age of sixteen when consenting to sexual acts (Wright, 2015).

Research shows that adolescents are sexually curious and some states have passed new laws to decriminalize consensual sex between adolescents and to create less harsh punishments. Decreasing registration requirements for juvenile sex offenders is an example of a less harsh punishment. The law is typically referred to as age differential statutory rape laws, or "Romeo and Juliette". Statutory rape laws are the only laws where the victim may also be the offender, and this is because of age (Beck & Boys, 2013).

Beck and Boys (2013) analyzed Wisconsin and California, and their age of consent. Wisconsin and California are the only two states in the country that have an age of consent set at eighteen. Due to these state laws, the two states have a large number of prosecutions of adolescent prosecutions for consensual sex. For example, in Pierce County, Wisconsin, the prosecutions for consensual sex between teenagers in the first six months of 2010 was more than all of the cases processed in 2009 in the state. These two states strongly believe that Wisconsin's statutory rape laws will have an impact on teenagers when deciding to have sex (Beck & Boys, 2013).

Throughout the last decade, research on adolescent sexuality has made advancements. Adolescent sexuality was not always viewed as a positive norm between teenagers. Sexual relations between teenagers was thought to be a health risk for different reasons. The possibility of getting a sexually transmitted infection (STI), adolescents might not use condoms and the chance of teenage pregnancy are all considered health risks. However, as more research was conducted on this topic, it discovered that adolescent sexuality and its development may be normal. An adolescent's sexuality begins developing when puberty starts. When puberty begins,

hormones tend to create a sex drive and increase a teenager's interest. This is for both male and females, but is more dominant in teenage boys (Tolman & McClelland, 2011); (Whitbeck, Yoder, Hoyt, & Conger, 1999).

In a survey conducted by the National Survey of Family Growth in 1995, it was discovered that 23% of adolescent females had sex with someone with whom they were not in a relationship. However, Manning et. al., revealed that one third of the 1,316 adolescents in their study that hooked up with someone they are not dating do so in hopes of developing some type of relationship. Adolescents who have sex do not necessarily need to be in a relationship. Teenagers engaging in sexual relations with someone who is not their partner may cause concern, however, this can be viewed as a culture among adolescents. A teenager who has sex with someone they are not dating is also known as hooking up (Manning, Giordano, & Longmore, 2006).

Casually hooking up between teenagers who are not dating has become increasingly normal, and also socially acceptable. Fortunato et. al., wrote that teenagers who hook up have no expectations to become emotionally attached to this person, or developing a relationship with them. In 2006, Manning et. al., conducted a study on 1,316 adolescents and their sex life (Fortunato, Young, Boyd, & Fons, 2010); (Manning, Giordano, & Longmore, 2006).

Manning et. al., researched the prevalence of adolescents having sexual interactions, and if so, what type of relationship they had. The study revealed that adolescents who were in 7th, 9th and 11th grade, 32% reported having sexual intercourse. Of the 32% who had sexual intercourse, more boys reported (32%) than girls (27%) that they were sexually active. This statistic supports other findings that boys are generally more sexually active than girls (Manning, Giordano, & Longmore, 2006).

Manning et. al., categorized the sample ($N=1,316$) into two categories. Adolescents who are sexually active ($n=413$), and adolescents who reported having had non-dating sex ($n=250$). This study wanted to determine whether or not the adolescents who were sexually active were dating. It was found that adolescents are more likely to hook up with someone they do know versus someone they do not. Sixty-three percent (63%) of the adolescents who had sex with someone they were not dating did know the other person, typically with an ex-boyfriend or ex-girlfriend or friend (Manning, Giordano, & Longmore, 2006).

Adolescent deviant behavior can result from external factors. For example, biological predispositions, socioeconomic status, relationship with peers, and lastly the relationship with parents and their parenting styles are types of external factors that can attribute to deviance (Crosswhite & Kerpelman, 2009).

Not every adolescent develops the same and some may deviate from the typical developmental path most teenagers take. Van Wijk et. al., conducted a literature review from seventeen articles specifically about juvenile sex offenders. This literature review compared juvenile sex offenders and adolescent offenders who did not commit sex crimes (Van Wijk, Vermeiren, Loeber, 'T Hart-Kerkhoffs, Doreleijers, & Bullens, 2006).

Labeling Theory

Juvenile deviance has two subcategories, primary and secondary. Primary deviance is normal behavior that adolescents may experience or be involved with. Secondary deviance is the next level, and is when a juvenile acknowledges the first judgment, but yet chooses to continue engaging in delinquent activity. These two types of deviance help explain labeling theory, and why a juvenile continues to commit crimes (Restivo & Lanier, 2015).

Labeling theory can serve as an explanation as to why an offender becomes involved in criminal activity and what motivates them to commit a crime. This theory suggests that if someone labels an adolescent delinquent or a criminal, they may continue to commit future crimes. Paternoster and Lovanni (1989) felt that the labeling of delinquent behavior should not be the main cause of future criminal offenses. However, it does increase the likelihood of a juvenile becoming involved in secondary deviance (Restivo & Lanier, 2015).

Labeling theory may help explain why juvenile sex offenders continue to commit sex offenses. The stigmatization of being called a sex offender can have extreme negative consequences for a mature and fully developed adult, never mind what it could do to a developing juvenile. A state like Illinois includes juvenile sex offenders on their online sex offender registry, which allows the public to see everything about them. As a result, Illinois does not protect its' juveniles. Not only does the state not protect its juveniles, but it publically labels them as sex offenders. The research shows that stigmatization has a direct effect on a juvenile. By labeling them as offenders, they may continue acting like offenders (Restivo & Lanier, 2015).

Restivo and Lanier (2015) discussed this detrimental stigmatization on juvenile offenders. By calling a juvenile an offender, it may make them feel like they are. This affects their self-image, and could do great harm on the person they become as they mature and develop.

There are two types of deviance that help explain labeling theory. Primary deviance occurs after the first action that is out of the norms or first crime. Once this happens, the first judgment follows. For example, when sexting first started happening between teenagers, there may have been sexual name calling or bullying afterwards. In this case, primary deviance would be the name calling, bullying or stigmatization (Restivo & Lanier, 2015).

Secondary deviance follows primary deviance. To continue the first example when a teenager was sexting and was judged, if they continue to do this and ignore the stigmatization, this would classify as secondary deviance. Secondary deviance is important because it could help explain why a person continues to commit crimes that are out of the norm. However, the crime or action done by a person may not be exactly out of the norm, and this can change from community to community (Restivo & Lanier, 2015).

What is deemed normal in cities and towns in Massachusetts may not be viewed the same in New York. This could be why secondary deviance can have a lot of gray area. Particularly with adolescents and sexual activity, it may be normal for adolescents to be engaging in sexual activity in California, but different for Alabama. This is why sex crimes also has a lot of gray area, and why laws pertaining to them should not be a "one size fits all". Another way to explain this is how states have different ages of consent for sexual activity, and their statutory rape laws vary. There is not a baseline across the country that states abide by, this is a state by state situation. Therefore, each state has its' own influence on deciding when adolescents are mature enough to engage in sexual activity.

Labeling theory can assist in explaining why a person commits their first crime which may not be violent, but later become a repeat offender due to stigmatization. The self-fulfilling prophecy is when an offender becomes what the public perceives them as, but may not have been that way originally. This prophecy is imperative to understand because of how sex offenses are viewed in this country.

When the juvenile court was created in 1899, its focus was to protect the juveniles from scrutiny from the public. Although, as mentioned in Chapter 2, there were changes that took place in the juvenile justice system and court. These changes stay consistent with the AWA, and

its more punitive punishment for juvenile sex offenders. This is how labeling theory fits in, because the changes that took place and the AWA categorizing adolescents adjudicated delinquent of sex offenses as juvenile sex offenders.

Juvenile sex offenders are extremely vulnerable to this prophecy because of their age. Also, because of their mental, emotional capacity and self-confidence. Adolescents are known to conform to what others believe them to be, whether it be positive or negative. If an adolescent commits a sex offense but it was not violent, they are more likely to offend again because that is what society believes sex offenders do. In other words, labeling theory suggests that an adolescent may acquire a new identity of a sex offender even though they are not a violent person.

The self-fulfilling prophecy has a huge role when an offender is stigmatized and judged for committing a sex crime, for adults and juveniles. During the adolescent years, a teenager is still forming their identity. This can happen during high school or even early college. If an adolescent commits a sex crime during these years, it can interfere with the forming of their identity and who they think they are as a person. This is one of the reasons it is crucial to not label adolescents. They can easily fall into the labeling or stigmatization and become the person the public views them as.

Chapter 4: The Adam Walsh Act (AWA)

Overview

In the past few decades, there have been several laws passed to deal with sex offenders and their recidivism. The Jacob Wetterling Act was enacted as a small part of the Violent Crime Control and Law Enforcement Act of 1994.

In 1989, 11 year-old Jacob Wetterling was kidnapped and never recovered from St. Joseph, Minnesota. The perpetrator was never identified, however, it was assumed the assailant was one of a few sex offenders residing in a halfway house in St. Joseph. Through the advocacy of his family, this case became well-known nationally. In response to the disappearance of Jacob Wetterling, President Bill Clinton signed the 1994 Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act. This act required each state to create a registry for convicted sex offenders. The registry was for specific offenses against children, and other sex crimes as well. The 1994 Jacob Wetterling Act was the national sex offender policy until the Adam Walsh Act (Terry & Ackerman, 2015).

Around the same time as Jacob Wetterling's disappearance, another high profile child victimization occurred. Adam Walsh was a 6-year-old boy who lived in Florida, and was abducted from a shopping mall and murdered in 1988. The 2006 Adam Walsh Act (AWA) was signed by President George Bush on the 25th anniversary of his abduction (Terry & Ackerman, 2015).

Upon its enactment in 2006, states were directed to pass statutes implementing the AWA. The Jacob Wetterling Act and the AWA are similar in some ways, however, the Adam Walsh Act has different guidelines and targets different age groups. States that did not comply with the

guidelines lost 10% of their annual federal crime funding. States had three years to comply with the new federal law. The federal government delegated to the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) to determine whether or not a state is in compliance with the AWA.

A main difference between the Wetterling Act and the AWA is the classification system used for offenders. The classification system is also known as a three-tiered structure. A low risk sex offender would be classified as tier 1. A moderate risk sex offender would be classified as tier 2. Lastly, a high risk offender would be classified as tier 3. The three tiers vary depending on the severity of the crime and/or the criminal history of the sex offender. The risk level is determined by the offender's conviction charge, and a risk assessment conducted by law enforcement or psychiatrists. An example of a conviction would be aggravated sexual assault and that offender would be classified as tier 3.

Community notification is a strategy law enforcement uses to make communities aware of sex offenders living within a certain area. There are some limitations as to what information can be accessed by the public (e.g., an offenders' social security number). Also, if an offender had been arrested for a non sex-crime and was not convicted, then that information would not be shared with the public via registry. States were given the discretion to decide as to whether or not implement this guideline on juvenile sex offenders. Juveniles were typically not subjected to community notification, however, it is not impossible.

Registries list the current address of where the offender is residing, where they may be a student, and where they work. Physical descriptions and current photographs are also included on the online registry. The sex offense that the offender was convicted of and any other prior sex

crimes are also included. The length of time that an offender's information must remain on the registration is guided by which tier they are assigned to.

The required length of registration can vary slightly from state to state. Tier 1 offenders are required to register on the sex offender registry for fifteen years. Tier 2 sex offenders are required to register for twenty-five years. Lastly, tier 3 offenders are required to register on the sex offender registry for life. States may exceed the federal AWA guidelines, but generally speaking they cannot go below the requirement (The United States Congress, 2006).

The AWA also mandates in-person verification for all sex offenders. This is to ensure the sex offenders are following the rules, and also to verify all their personal information. In-person verification also allows the offender to share any change in information, such as a new address or telephone number. Tier 1 offenders do not have to appear for in-person verification as often as other tiers.

A criticism of the sex offender registry is the stigmatization it portrays on sex offenders. Considering all of this information is made accessible to communities, it may make it difficult for some offenders to move past the crime. It can also make it difficult for an offender to find employment, a place to live, and to engage in healthy relationships.

Over the years, the provisions for juvenile offenders have changed due to advocacy from different organizations and the public. The federal government allowed comments to be shared on behalf of the treatment of juveniles. Those comments have been taken into consideration when changing the guidelines for juveniles adjudicated delinquent of serious sex crimes, and are included in several reports released since the passage of the 2006 AWA.

Juvenile Provisions

Overview of juvenile provisions. Since the passage of the 2006 AWA, the federal government has released several reports regarding the guidelines for sex offenders. The AWA can be unclear; therefore, the reports may further explain unanswered questions by the states on how to implement some provisions. The national reports purpose was to make the AWA more understandable, and to explain new, if any, provisions.

2007 national guidelines (juvenile provisions). The AWA National Guidelines were released in 2007 and was the first outline of the act. This report is a layout of the AWA and written in a manner that would help law enforcement have an enhanced understanding of this federal law. The report stated that juveniles adjudicated delinquent of certain sex crimes and are over the age of fourteen are required to register (Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking, 2007).

The guidelines revealed that a juvenile sex offender may be given a chance to be removed from the registry depending on which tier they are. This opportunity varied state by state, and it was not guaranteed that an offender was offered this. An example of this is if a juvenile is a tier 1 offender and they have not committed any new crimes, their registration may be reduced by five years. (Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking, 2007). The next set of Supplemental Guidelines were released in 2011, also explaining new provisions for juvenile sex offenders.

2011 supplemental guidelines (juvenile provisions). Within the 2011 Supplemental Guidelines were new provisions for juvenile sex offenders. The guidelines explained how the states were given the discretion to decide whether or not to put juvenile sex offenders on the online registry. The Supplemental Guidelines shared comments that were given regarding the AWA and its juvenile provisions. It was stated that registration requirements for juveniles should

be decreased or removed due to the fact that they resemble adult offenders (Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking, 2011).

The 2011 Supplemental Guidelines stated that due to the possibility of life-time registration, the juvenile may not be rehabilitated. By the AWA not making rehabilitation the first priority, this law undermines the juvenile justice system. The juvenile justice systems original purpose was to ensure that juveniles were treated differently than adult offenders. While a goal of registration and community notification is a tool to track offenders, SORNA removed the requirement of public disclosure of juveniles adjudicated delinquent. However, jurisdictions still have discretion on whether or not to do so. The removal of juvenile's personal information on the online registry is (Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking, 2011)

In 2011, juveniles adjudicated delinquent for non-violent sex crimes were not required to register. However, this provision has changed throughout the years. Nevada and Florida are examples of complying states that register juveniles adjudicated delinquent of sexting or statutory rape. Sexting may be consensual, and is the sharing of sexually explicit images between two people. In regards to this research project, statutory rape is described as a consensual sexual encounter between two teenagers (Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking, 2011).

2015 report. In March of 2015, the SMART office released a report titled Prosecution, Transfer, and Registration of Serious Juvenile Sex Offenders. This report explained specific provisions for juveniles adjudicated delinquent for serious sex crimes, and what states implement, if any, AWA guidelines (Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking, 2015).

The AWA has three separate types of registration. Discretionary registration is when a juvenile adjudicated delinquent of a serious sex crime becomes qualified for sex offender registration and notification. However, discretionary registration requires further determination before it is given. As of 2015, eleven states utilize this form of registration (Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking, 2015).

As of 2015, twenty-seven states impose mandatory registration on juvenile sex offenders. Registration and notification may be mandated, however, this type of registration is for juveniles who commit the most serious sex offenses. Out of the twenty-seven states who utilize this registration, SORNA has determined that only fifteen of them are in full compliance with the AWA. In contrast, some states do not mandate registration for juvenile sex offenders. As of 2015, nine states do not register any juveniles adjudicated delinquent for any sex offense (Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking, 2015).

The two types of website postings are mandatory and discretionary. Mandatory website posting pertains to any juvenile adjudicated delinquency of a serious sex crime. As of 2015, sixteen states implement this form of website posting. Discretionary website posting allows the juvenile court judge the discretion to determine if the juvenile should be ordered to this. This decision could also be based on results from a risk assessment. As of 2015, nine states use this process for website posting (Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking, 2015). The next report released was the 2016 Supplemental Guidelines, explaining new provisions for juveniles.

2016 proposed supplemental guidelines for juvenile registration. The 2016 Supplemental Guidelines discussed website posting specifically, for juveniles. It appears that the states dealing with putting juvenile's information on the online registry has been an ongoing

issue. Some states did not want to comply with this provision, leading to this requirement being removed. While the Attorney General does not require states to put adolescent's personal information on the online registry, it is still required that juveniles register in the national databases that are not accessible to the public.

Prior to the passage of the AWA in 2006, some states already had a system in place for juvenile sex offenders. The SMART office reviews each state independently to determine whether or not federal funding should be withdrawn or granted. Recently in 2016, the SMART office was accepting comments from the public on their opinions.

There have been numerous criticisms on the supplemental guidelines imposed on juvenile sex offenders. Research shows that registering juvenile sex offenders may do more harm than good. Adolescence is a vulnerable stage. When teenagers are given the stigma of being a sex offender, it could have long-lasting detrimental effects on them (Lehrer, Letourneau, Pittman, Rumenap, & Leversee, 2016). The Illinois Juvenile Justice Commission (IJJC) stated that registering juveniles affects housing opportunities, education, family relationships, and employment. IJJC also wrote that by subjecting juveniles to the guidelines that adult sex offenders receive, it can produce poor outcomes for communities (Lehrer, Letourneau, Pittman, Rumenap, & Leversee, 2016).

Lehrer et. al., wrote that the AWA juvenile provisions undermined the original reason the juvenile justice system was created. The juvenile justice system intended to treat and rehabilitate adolescents. The system also kept juvenile records confidential, however, the national guidelines for the AWA subject fourteen year olds to put their information on the sex offender registry (Lehrer, Letourneau, Pittman, Rumenap, & Leversee, 2016).

Lehrer et. al., stated that adolescents are more likely to act impulsively which could attribute to their delinquent behavior, however, it is possible they could mature and grow out of that trait. Therefore, the juvenile provisions in the AWA could delay adolescents' development (Lehrer, Letourneau, Pittman, Rumenap, & Leversee, 2016).

The following chapter is an exploratory analysis of how the eighteen compliant states addressed the AWA's juvenile provisions in their state implantation efforts.

Chapter 5: Methodology

In order to efficiently gather information, there were different methods used throughout this thesis. Multiple reports were used, and each one relayed different facts on the AWA. Some reports covered the AWA broadly, while others were more focused on the juvenile sex offender laws.

Research Question

This study asks the following question:

1. How did states address the 2006 federal mandate within the Adam Walsh Act (AWA) requiring them to register some adolescents as sex offenders?

Methods

In order to investigate the research question, a qualitative study was designed using primary sources including various documents. Qualitative research focuses on observations, interviews or people's actions and behaviors. For example, conducting interviews and administering surveys are types of Qualitative research. Quantitative research emphasizes on statistics, and would use numbers to answer a research question. The two research methods are completely different and would be used to for different reasons. Qualitative research will be used in this policy analysis (Lanier & Briggs, 2014).

Qualitative research is an appropriate method for a Policy Analysis. This research design will allow me to review the AWA, and its guidelines. Whereas Quantitative research would perhaps focus on the number of sex offenders per state, how much a state would spend on tracking sex offenders, the sex offender registry and management. Both qualitative and quantitative are exceptional research designs, however, qualitative is a better approach to my research question (Lanier & Briggs, 2014).

Policy analysis is the extensive review of a law or policy. In this case, the AWA was reviewed multiple times in order to accurately describe and understand it. By doing this, I will be able to make connections between the states. Without fully comprehending this federal policy, it would be difficult to understand why states are found in compliance or not. SMART Reports amongst others were used to carry out this policy analysis.

Conducting a policy analysis is important because it digs deeper into a policy and what possibly motivated it to be passed. In order to understand why the AWA was passed, it was important to look at what law was in effect prior to it. Also, why was a new law passed? There are motivating factors that underlie the AWA, and within this policy analysis there may be unintended consequences discovered.

Some policy analysis' might review the entire policy, however, this thesis focused specifically on federal and state juvenile sex offender laws. Adult offenders were mentioned only to compare them to juvenile offenders, and to explain the differences.

I will be using primary sources to conduct the research and gather data. My primary sources include the Adam Walsh Act, Department of Justice (DOJ) Guidelines, SMART Reports and state statutes. All of these sources serve a different purpose, but are all equally important. These sources will assist when making connections

SMART Reports

SMART Reports were released when the AWA was initially passed, and also within the last few years. These reports vary in length based on how much information the state has to offer. They are an overview of how states comply or do not comply with this federal sex offender law. The reports are broken down by each guideline.

Each guideline is explained and how states are supposed to implement them, and

whether or not the states do so or not. For example, Failure to Register is a specific guideline that is in every report. The report explains exactly what Failure to Register is, and how states should be implementing this guideline. If a state deviates in any way, the report will explain how it happens and whether or not the deviation is serious enough to be found not in compliance with that part of the AWA. Just because a state deviates from several guidelines does not mean they are not deemed compliant with the law. States were given room to deviate due to the state possibly having its' own system in place prior the passage of the AWA.

At the beginning of this thesis, only seventeen SMART Reports for the complying states were readily available to the public on the SORNA website. As a part of trying to find more information regarding non-complying states I submitted a Freedom of Information Request (FOIA) to the government. Nine months later this request was filled and I was given access to the remaining SMART Reports on the thirty-three non-complying states.

Being able to review the reports for the non-complying states was a major breakthrough in this thesis. Prior to having these reports, it was unknown where and how often the non-complying states deviated from the AWA. This will be a topic in the discussion chapter later in the thesis because it was interesting discovering to see where the non-complying states deviate.

The SMART Reports were the most important piece of this thesis. There are still unanswered questions, however, these reports were essential when trying to see how states implement juvenile sex offender guidelines. There were other reports and guidelines that were referred to in order to understand this law.

FOIA Request

In early January 2016, a Freedom of Information Act Request was submitted to the federal government. Prior to submitting this request, I had access to only seventeen SMART

Reports, all of which were for complying states. When submitting this request, it was in hopes that I would receive documents that would explain why states are not found in compliance, and if the juvenile requirements had an influence on this. As mentioned before, the SMART Reports only explained the guidelines and if states complied with them, or if and how they deviated.

This request was fulfilled on August 24, 2016. The extended time frame was a limitation in itself, as it was not filled for almost eight and a half months. When the FOIA request was fulfilled, the documents that I was given access to were not what was expected. I was given access to the thirty-three non-complying state SMART Reports. The reports had the same format as the complying states', and did not answer the question I was hoping to answer. However, the reports for the non-complying states assisted in filling out all of the tables for the states, and connecting any common themes and pattern among those states.

Reports and Guidelines

As previously mentioned, the SMART Reports were the most important pieces of information when trying to answer most questions. However, other reports and guidelines assisted in clarifying complicated guidelines of the AWA. The first report that was reviewed was the 2007 National Guidelines released by SORNA.

The 2007 National Guidelines was an outline that covered a majority of the AWA, but this among other reports were used solely to retrieve any new information on juvenile provisions. A few years later, the 2011 Supplemental Guidelines was released by SORNA. This report was similar to the guidelines written in 2007, however, it was updated.

The most recent and important report was written and released in 2015 by SORNA. This report was specifically about juvenile sex offenders, and was titled Prosecution, Transfer, and

Registration of Serious Juvenile Sex Offenders. This report helped with understanding different types of registration, and a more recent explanation of the complying and non-complying states.

The last report used was the 2016 Proposed Supplemental Guidelines for Juvenile Registration. This report had comments and opinions on juvenile sex offender registration. This report was an important part of this thesis because the opinions of the professionals who shared their opinions are against the harsh punishment that juveniles sex offenders may endure. These reports compiled together were used to fill out tables for each complying and non-complying state.

Tables

<u>SORNA Juvenile Requirements</u>	<u>Alabama (as of 7/14/2011)</u>
14 year-old age minimum for registration	
Registration in jurisdiction of crime committed AND residence and where they attend school	
Three-Tiered system	
Failure to register	
Opportunity to get removed from registry	
Not required to register if crime was lesser than aggravated sexual assault (e.g. statutory rape)	
In person registration x 3 mos	
Retroactive requirement	

Above is an example of the table constructed as a tool to gather all the information retrieved. Each of the guidelines on the left of the table are introduced in the SMART Reports for a state. Most of the answers came from the SMART Reports, however, the separate reports explained above aided my further and in depth understanding of each guideline.

The tables were created in hopes of being able to compare several states at once. They will be used as tools when looking for patterns in the non-complying states. While the reports were a main source of information to fill out the tables, the tables are the main method that will be used to make connections in the discussion chapter.

Limitations

Every research project has limitations. The biggest limitation for this thesis was the limited access to reports, and what information was made available to the public. I filled out a Freedom of Information Request to the federal government, also known as a FOIA Request in January of 2016.

Prior to the FOIA Request being fulfilled in August 2016, I had access to only seventeen SMART Reports for the complying states. These reports were useful when collecting data and filling out tables for each state. However, the reports did not answer every question I had.

When the FOIA Request was fulfilled, I was able to complete a majority of the tables for the non-complying thirty-three states. Before gaining access to the SMART Reports, there was very little if any public information on the states and where or why they were not found in compliance with the AWA. Also, the time it took for the FOIA Request to be filled was a limitation in itself. Not having access to the reports for the thirty-three states held back much of the project until finally I was given access.

At the beginning of this project, a question that I was seeking to answer was why states did not comply. It was in hopes that once the FOIA Request was fulfilled, the reports would reveal or suggest why this was the case. However, the reports for the non-complying states closely resembled the complying states reports. Also, the reports for the compliant and non-

complying states had the same format. Rather than answering why states were not found in compliance, the reports reviewed each guideline and explained how states deviate.

State laws and statutes were extremely difficult to understand and obtain. A certain category in the tables “Not required to register if crime was lesser than sexual assault” was extremely difficult to answer for a majority of the states. State statutes were not clear on whether or not sexting or statutory rape was made registerable for juveniles adjudicated delinquent for those crimes. Due to this topic not being widely researched, material regarding juvenile sex offender and their issues with state and federal laws was difficult to find, if at all.

Policy Analysis Framework

A policy analysis conducts an in depth review of a law. There may be a list of questions that will be answered, such as what is the history of this problem in the United States? This type of analysis is important because there are a lot of key components of a policy that need to be reviewed. The following chapter will go into depth of the policy analysis of the AWA, and answer the imperative questions (Jimenez, Pasztor, Chambers, & Pearlman Fujii, 2015).

The policy analysis framework includes three parts. Part 1 is seeking to understand the social problem addressed by the policy. This includes the history of the problems, and also what problems could be solved by implementing this policy. The second part of the policy analysis looks at the objectives of the policy, expectations and also the target populations. This part is important because it looks at who is directly inflicted by this policy, and also what the goal is. The third, final and most important piece of this framework is the effects of the policy. Specifically, the unintended effects. Considering how many possible negative effects the AWA could have on a sex offender, this part is imperative.

The three parts previously explained are why this framework is suitable for reviewing the AWA, and is a great fit for the research question. This framework will allow me to review the AWA and its' guidelines, and to make connections in the analysis. Also, this framework is designed with questions to target the topics of this research study, and to answer questions that are related to the issues relevant to the AWA. The target population section of this analysis will allow me to focus directly on juvenile sex offenders, and review its direct consequences on them. (Jimenez, Pasztor, Chambers, & Pearlman Fujii, 2015).

Chapter 6: Data and Analysis

This chapter will include all of the data gathered from all of the sources used. Every table that is filled out will assist in the analysis and be the key component when discovering any common patterns or themes amongst the states.

Tables

Compliant States: N=17

Table 1- SORNA & Alabama State Juvenile Sex Offender Laws

<u>SORNA Juvenile Requirements</u>	<u>Alabama (as of 7/14/2011)</u>
14 year-old age minimum for registration	Yes
Registration in jurisdiction of crime committed AND residence and where they attend school	Yes
Three-Tiered system	No- adults register for life, minimum of 10 years for juveniles
Failure to register	Yes
Opportunity to get removed from registry	Yes
Not required to register if crime was lesser than aggravated sexual assault (e.g. statutory rape)	Yes
In person registration x 3 mos	Yes
Retroactive requirement	Yes

As noted in Table 1 above, Alabama deviates from the AWA guidelines in three ways. The state may put a sex offenders' criminal history on the sex offender registry if there is a high chance of reoffending. Alabama does not utilize a three-tiered classification system. There is a mandatory lifetime registration requirement for convicted adult sex offenders, and a 10-year minimum requirement for juveniles. The state is retroactive by mandating juvenile offenders to register for 10 years on the last date of release for the offense. Lastly, Alabama is not retroactive when registering sex offenders.

Table 2- SORNA & Colorado Juvenile Sex Offender Laws

<u>SORNA Juvenile Requirements</u>	<u>Colorado (as of 11/5/2013)</u>
14 year-old age minimum for registration	Yes
Failure to register	Yes
Registration in jurisdiction of crime committed, residence and where they attend school	Partially- not school
Three-Tiered system	No- annual and quarterly Registrants
Opportunity to get removed from registry	Yes
Not required to register if crime was lesser than aggravated sexual assault (e.g. statutory rape)	Undetermined
In person registration x 3 mos	Yes
Retroactive requirement	Yes

As noted in Table 2 above, Colorado deviates from the AWA guidelines as related to adolescent sex offenders. Also, Colorado does not use a three-tiered system. The state utilizes its own classification system, and offenders are categorized as annual and quarterly registrants. Annual registrants are referred to as less stringent offenders. Quarterly registrants are described as more stringent offenders, and they are required to register quarterly for life.

Table 3- SORNA & Delaware Juvenile Sex Offender Laws

<u>SORNA Juvenile Requirements</u>	<u>Delaware (as of 3/2010)</u>
14 year-old age minimum for registration	Yes
Failure to register	Yes
Registration in jurisdiction of crime committed AND residence and where they attend school	Yes
Three-Tiered system	Yes
Opportunity to get removed from registry	Yes
Not required to register if crime was lesser than aggravated sexual assault (e.g. statutory rape)	Undetermined
In person registration x 3 mos	Yes
Retroactive requirement	Partially- able to appeal

As noted in table 4 above, it appears Delaware does not deviate from the AWA.

Table 4- SORNA & Florida Juvenile Sex Offender Laws

<u>SORNA Juvenile Requirements</u>	<u>Florida (as of 2009)</u>
14 year-old age minimum for registration	Yes
Failure to register	Yes
Registration in jurisdiction of crime committed AND residence and where they attend school	Partially- does not always collect high school addresses
Three-Tiered system	Yes
Opportunity to get removed from registry	Yes- Romeo and Juliette Law
Not required to register if crime was lesser than aggravated sexual assault (e.g. statutory rape)	Undetermined
In person registration x 3 mos	Yes
Retroactive requirement	Yes

As noted in Table 3 above, Florida only deviates from the AWA guidelines by not gathering addresses of high school that offenders may attend.

Table 5- SORNA & Kansas Juvenile Sex Offender Laws

<u>SORNA Juvenile Requirements</u>	<u>Kansas (as of 7/19/2011)</u>
14 year-old age minimum for registration	Yes
Failure to register	Yes
Registration in jurisdiction of crime committed AND residence and where they attend school	Yes
Three-Tiered system	Yes
Opportunity to get removed from registry	Yes
Adjudicated or convicted	Adjudicated
Not required to register if crime was lesser than sexual assault (e.g. statutory rape)	Yes
In person registration x 3 mos	Yes
Retroactive requirement	Partially- April 1994

As noted in Table 5 above, Kansas deviates from the AWA guidelines in two ways. Kansas is only retroactive after April of 1994.

Table 6- SORNA & Louisiana Juvenile Sex Offender Laws

<u>SORNA Juvenile Requirements</u>	<u>Louisiana (as of 7/7/2011)</u>
14 year-old age minimum for registration	Yes
Failure to register	Yes
Registration in jurisdiction of crime committed AND residence and where they attend school	Yes
Three-Tiered system	Yes
Opportunity to get removed from registry	Yes
Register while incarcerated anticipating release	Yes
Not required to register if crime was lesser than aggravated sexual assault (e.g. statutory rape)	Yes- Video voyeurism
In person registration x 3 mos	Yes
Retroactive requirement	Yes

As noted in table 6 above, Louisiana deviates from the AWA by requiring offenders to register for video voyeurism.

Table 7- SORNA & Maryland Juvenile Sex Offender Laws

<u>SORNA Juvenile Requirements</u>	<u>Maryland (as of 7/19/2011)</u>
14 year-old age minimum for registration	Yes
Failure to register	Yes
Registration in jurisdiction of crime committed AND residence and where they attend school	Yes
Three-Tiered system	Yes
Opportunity to get removed from registry	Yes
Not required to register if crime was lesser than aggravated sexual assault (e.g. statutory rape)	Yes
In person registration x 3 mos	Yes
Retroactive requirement	Yes

As noted in Table 7 above, Maryland partially uses a three-tiered system. Juveniles adjudicated delinquent are required to register for their sentenced probation length.

Table 8- SORNA & Michigan Juvenile Sex Offender Laws

<u>SORNA Juvenile Requirements</u>	<u>Michigan (as of 5/9/2011)</u>
14 year-old age minimum for registration	Yes
Failure to register	Yes
Registration in jurisdiction of crime committed AND residence and where they attend school	Yes
Three-Tiered system	Yes
Opportunity to get removed from registry	Yes
Not required to register if crime was lesser than aggravated sexual assault (e.g. statutory rape)	Yes
In person registration x 3 mos	Yes
Retroactive requirement	Yes

As noted in table 8 above, it appears Michigan does not substantially deviate from the AWA.

Table 9- SORNA & Mississippi Juvenile Sex Offender Laws

<u>SORNA Juvenile Requirements</u>	<u>Mississippi (as of 7/27/2011)</u>
14 year-old age minimum for registration	Yes
Failure to register	Yes
Registration in jurisdiction of crime committed AND residence and where they attend school	Yes
Three-Tiered system	Yes
Opportunity to get removed from registry	Yes
Not required to register if crime was lesser than aggravated sexual assault (e.g. statutory rape)	Yes
In person registration x 3 mos	Yes
Retroactive requirement	Yes

As noted in Table 8 above, it appears Mississippi does not deviate from the AWA.

Table 10- SORNA & Missouri Juvenile Sex Offender Laws

<u>SORNA Juvenile Requirements</u>	<u>Missouri (as of 12/19/2011)</u>
14 year-old age minimum for registration	Yes
Failure to register	Yes
Registration in jurisdiction of crime committed AND residence and where they attend school	Yes
Three-Tiered system	No- 2 categories of lifetime registrants
Opportunity to get removed from registry	Yes
Not required to register if crime was lesser than aggravated sexual assault (e.g. statutory rape)	Yes
In person registration x 3 mos	No- every 4 mos
Retroactive requirement	Yes

As noted in Table 10 above, Missouri does not use a three-tiered system, instead there are two categories of registrants. A Lifetime Registrant is required to report to law enforcement every six months. Another category of lifetime registrants have to report every ninety days, both of these categories depend on the conviction. Lastly, offenders are required to register every four months instead of three.

Table 11- SORNA & Nevada Juvenile Sex Offender Laws

<u>SORNA Juvenile Requirements</u>	<u>Nevada (as of 2/2011)</u>
14 year-old age minimum for registration	Yes
Failure to register	Yes
Registration in jurisdiction of crime committed AND residence and where they attend school	Yes
Three-Tiered system	Yes
Opportunity to get removed from registry	Yes
Register while incarcerated anticipating release	Yes
Not required to register if crime was lesser than aggravated sexual assault (e.g. statutory rape)	Undetermined
In person registration x 3 mos	Yes
Retroactive requirement	Yes

As noted in Table 11 above, Nevada does not deviate from the AWA.

Table 12- SORNA & Ohio Juvenile Sex Offender Laws

<u>SORNA Juvenile Requirements</u>	<u>Ohio (as of 8/2009)</u>
14 year-old age minimum for registration	Partially
Failure to register	Yes
Registration in jurisdiction of crime committed AND residence and where they attend school	Yes
Three-Tiered system	Yes
Opportunity to get removed from registry	Partially- only for certain classes of offenders
Register while incarcerated anticipating release	Yes
Not required to register if crime was lesser than aggravated sexual assault (e.g. statutory rape)	Undetermined
In person registration x 3 mos	Yes
Retroactive requirement	Yes

As noted in Table 12 above, juveniles who are 14 or 15 at the time of the offense are potentially subjected to registration. Juveniles ages 16 or 17 at the time of the offense are required to register. Only gives certain classes of offenders an opportunity to be removed from the only registry. Ohio does not require sex offenders to complete their probation/parole sentence.

Table 13- SORNA & Pennsylvania Juvenile Sex Offender Laws

<u>SORNA Juvenile Requirements</u>	<u>Pennsylvania (as of 8/2012)</u>
14 year-old age minimum for registration	Yes
Failure to register	Yes
Registration in jurisdiction of crime committed AND residence and where they attend school	Yes
Three-Tiered system	Yes
Opportunity to get removed from registry	Partially- depends on age when crime was committed, and which tier
Not required to register if crime was lesser than sexual assault (e.g. statutory rape)	No
In person registration x 3 mos	Yes
Retroactive requirement	Yes

As noted in Table 13 above, Pennsylvania only deviates from the AWA by giving certain offenders an opportunity to be removed from the online registry. It depends on the age of the offender when the crime was committed, and also which tier they are. The opportunity to be removed from the registry is only available after 25 years.

Table 14- SORNA & South Carolina Juvenile Sex Offender Laws

<u>SORNA Juvenile Requirements</u>	<u>South Carolina (as of 7/2011)</u>
14 year-old age minimum for registration	Yes
Failure to register	Yes
Registration in jurisdiction of crime committed AND residence and where they attend school	Yes
Three-Tiered system	Yes
Opportunity to get removed from registry	Yes
Not required to register if crime was lesser than sexual assault (e.g. statutory rape)	No
In person registration x 3 mos	Yes
Retroactive requirement	Yes

As noted in Table 14 above, South Carolina does not deviate from the AWA. However, the state is retroactive. In 2011, South Carolina anticipated to contact all convicted sex offenders and implement the AWA.

Table 15- SORNA & South Dakota Juvenile Sex Offender Laws

<u>SORNA Juvenile Requirements</u>	<u>South Dakota</u>
14 year-old age minimum for registration	Yes
Failure to register	Yes
Registration in jurisdiction of crime committed AND residence and where they attend school	Yes
Three-Tiered system	Yes
Opportunity to get removed from registry	Yes
Not required to register if crime was lesser than sexual assault (e.g. statutory rape)	Partially
In person registration x 3 mos	No- every 6 months
Retroactive requirement	Yes

As noted in Table 15 above, South Dakota only requires offenders to register every six months.

Table 16- SORNA & Tennessee Juvenile Sex Offender Laws

<u>SORNA Juvenile Requirements</u>	<u>Tennessee (as of 8/2011)</u>
14 year-old age minimum for registration	Yes
Failure to register	Yes
Registration in jurisdiction of crime committed AND residence and where they attend school	Partially- does not register school
Three-Tiered system	No- classified as sexual offenders, or violent sexual offenders
Opportunity to get removed from registry	Yes
Not required to register if crime was lesser than sexual assault (e.g. statutory rape)	Undetermined
In person registration x 3 mos	Yes
Retroactive requirement	Partially

As noted in Table 16 above, Tennessee deviates from the AWA by not put school addresses on the online registry. Also, Tennessee does not utilize a three-tiered system.

Table 17- SORNA & Wyoming Juvenile Sex Offender Laws

<u>SORNA Juvenile Requirements</u>	<u>Wyoming (as of 4/2011)</u>
14 year-old age minimum for registration	Yes
Failure to register	Yes
Registration in jurisdiction of crime committed AND residence and where they attend school	Yes
Three-Tiered system	Yes
Opportunity to get removed from registry	Yes
Not required to register if crime was lesser than sexual assault (e.g. statutory rape)	Undetermined
In person registration x 3 mos	Yes
Retroactive requirement	Yes

As noted in Table 17 above, Wyoming does not substantially deviate from the AWA.

Non-Compliant States: N=38

Table 1- SORNA & Arizona Juvenile Sex Offender Laws

<u>SORNA Juvenile Requirements</u>	<u>Arizona</u>
14 year-old age minimum for registration	SMART Report did not specify
Failure to register	Yes
Registration in jurisdiction of crime committed AND residence and where they attend school	Possibly- if offender is not incarcerated after conviction and does not live in Arizona following, they do not have to register in the state
Three-Tiered system	Yes
Opportunity to get removed from registry	Yes
Not required to register if crime was lesser than sexual assault (e.g. statutory rape)	Undetermined
In person registration x 3 mos	Depending on tier
Retroactive requirement	Yes

Table 2- SORNA & Arkansas Juvenile Sex Offender Laws

<u>SORNA Juvenile Requirements</u>	<u>Arkansas</u>
14 year-old age minimum for registration	Yes
Failure to register	Yes
Registration in jurisdiction of crime committed AND residence and where they attend school	Yes
Three-Tiered system	No- all offenders are required to register for life
Opportunity to get removed from registry	Yes
Not required to register if crime was lesser than sexual assault (e.g. statutory rape)	Undetermined
In person registration x 3 mos	Yes- Level 4 offenders
Retroactive requirement	No- not before April 1, 1997

Table 3- SORNA & California Juvenile Sex Offender Laws

<u>SORNA Juvenile Requirements</u>	<u>California</u>
14 year-old age minimum for registration	SMART Report did not specify
Failure to register	Yes
Registration in jurisdiction of crime committed AND residence and where they attend school	Yes
Three-Tiered system	Yes
Opportunity to get removed from registry	Yes
Not required to register if crime was lesser than sexual assault (e.g. statutory rape)	Undetermined
In person registration x 3 mos	Yes
Retroactive requirement	Yes

Table 4- SORNA & Connecticut Juvenile Sex Offender Laws

<u>SORNA Juvenile Requirements</u>	<u>Connecticut</u>
14 year-old age minimum for registration	
Failure to register	
Registration in jurisdiction of crime committed AND residence and where they attend school	
Three-Tiered system	
Opportunity to get removed from registry	
Not required to register if crime was lesser than sexual assault (e.g. statutory rape)	
In person registration x 3 mos	
Retroactive requirement	

Does not register juveniles.

Table 5- SORNA & Georgia Juvenile Sex Offender Laws

<u>SORNA Juvenile Requirements</u>	<u>Georgia</u>
14 year-old age minimum for registration	
Failure to register	
Registration in jurisdiction of crime committed AND residence and where they attend school	
Three-Tiered system	
Opportunity to get removed from registry	
Not required to register if crime was lesser than sexual assault (e.g. statutory rape)	
In person registration x 3 mos	
Retroactive requirement	

Does not register Juveniles.

Table 6- SORNA & Idaho Juvenile Sex Offender Laws

<u>SORNA Juvenile Requirements</u>	<u>Idaho</u>
14 year-old age minimum for registration	Yes
Failure to register	Yes
Registration in jurisdiction of crime committed AND residence and where they attend school	Yes
Three-Tiered system	No
Opportunity to get removed from registry	Yes
Not required to register if crime was lesser than sexual assault (e.g. statutory rape)	Undetermined
In person registration x 3 mos	No
Retroactive requirement	Yes

As noted in Table 18 above, Idaho deviates by not implementing the three-tiered classification system. Idaho classifies its offenders into two categories, an aggravated offense or a violent sexual predator. Idaho also does not require in person registration every three months. Depending on which classification an offender is determines how often they are required to register. A violent sexual predator is required to register quarterly every year, and all other sex offenses are annually.

Table 7- SORNA & Indiana Juvenile Sex Offender Laws

<u>SORNA Juvenile Requirements</u>	<u>Indiana</u>
14 year-old age minimum for registration	SMART Report did not specify
Failure to register	Yes
Registration in jurisdiction of crime committed AND residence and where they attend school	No
Three-Tiered system	No
Opportunity to get removed from registry	Yes
Not required to register if crime was lesser than sexual assault (e.g. statutory rape)	Undetermined
In person registration x 3 mos	No
Retroactive requirement	No

Table 8- SORNA & Kentucky Juvenile Sex Offender Laws

<u>SORNA Juvenile Requirements</u>	<u>Kentucky</u>
14 year-old age minimum for registration	
Failure to register	
Registration in jurisdiction of crime committed AND residence and where they attend school	
Three-Tiered system	
Opportunity to get removed from registry	
Not required to register if crime was lesser than sexual assault (e.g. statutory rape)	
In person registration x 3 mos	
Retroactive requirement	

Only registers juveniles if they are convicted as adults.

Table 9- SORNA & Maine Juvenile Sex Offender Laws

<u>SORNA Juvenile Requirements</u>	<u>Maine</u>
14 year-old age minimum for registration	
Failure to register	
Registration in jurisdiction of crime committed AND residence and where they attend school	
Three-Tiered system	
Opportunity to get removed from registry	
Not required to register if crime was lesser than sexual assault (e.g. statutory rape)	
In person registration x 3 mos	
Retroactive requirement	

Only registers juveniles if they are convicted as adults.

Table 10- SORNA & Massachusetts Juvenile Sex Offender Laws

<u>SORNA Juvenile Requirements</u>	<u>Massachusetts</u>
14 year-old age minimum for registration	SMART Report did not specify
Failure to register	Yes
Registration in jurisdiction of crime committed AND residence and where they attend school	Yes
Three-Tiered system	Yes
Opportunity to get removed from registry	
Not required to register if crime was lesser than sexual assault (e.g. statutory rape)	Yes
In person registration x 3 mos	No- every 6 months
Retroactive requirement	No

Table 11- SORNA & Montana Juvenile Sex Offender Laws

<u>SORNA Juvenile Requirements</u>	<u>Montana</u>
14 year-old age minimum for registration	SMART Report did not specify
Failure to register	Yes
Registration in jurisdiction of crime committed AND residence and where they attend school	Yes
Three-Tiered system	Yes
Opportunity to get removed from registry	Yes- depending on the level of offender
Not required to register if crime was lesser than sexual assault (e.g. statutory rape)	Undetermined
In person registration x 3 mos	Undetermined
Retroactive requirement	Yes

Table 12- SORNA & Nebraska Juvenile Sex Offender Laws

<u>SORNA Juvenile Requirements</u>	<u>Nebraska</u>
14 year-old age minimum for registration	
Failure to register	
Registration in jurisdiction of crime committed AND residence and where they attend school	
Three-Tiered system	
Opportunity to get removed from registry	
Not required to register if crime was lesser than sexual assault (e.g. statutory rape)	
In person registration x 3 mos	
Retroactive requirement	

Does not register juveniles.

Table 13- SORNA & New Hampshire Juvenile Sex Offender Laws

<u>SORNA Juvenile Requirements</u>	<u>New Hampshire</u>
14 year-old age minimum for registration	Yes
Failure to register	Yes
Registration in jurisdiction of crime committed AND residence and where they attend school	Yes
Three-Tiered system	Yes
Opportunity to get removed from registry	Yes- when juvenile turns 17
Not required to register if crime was lesser than sexual assault (e.g. statutory rape)	Undetermined
In person registration x 3 mos	Yes
Retroactive requirement	Undetermined

Table 18- SORNA & New Jersey Juvenile Sex Offender Laws

<u>SORNA Juvenile Requirements</u>	<u>New Jersey</u>
14 year-old age minimum for registration	No age minimum requirement for registration
Failure to register	Yes
Registration in jurisdiction of crime committed AND residence and where they attend school	Yes
Three-Tiered system	No
Opportunity to get removed from registry	Yes
Not required to register if crime was lesser than sexual assault (e.g. statutory rape)	Undetermined
In person registration x 3 mos	No- crime committed determines frequency of registration
Retroactive requirement	Yes

Table 15- SORNA & New Mexico Juvenile Sex Offender Laws

<u>SORNA Juvenile Requirements</u>	<u>New Mexico</u>
14 year-old age minimum for registration	Yes-if court determines juvenile to be a youthful offender
Failure to register	Undetermined
Registration in jurisdiction of crime committed AND residence and where they attend school	Yes
Three-Tiered system	Yes
Opportunity to get removed from registry	Undetermined
Not required to register if crime was lesser than sexual assault (e.g. statutory rape)	Undetermined
In person registration x 3 mos	Undetermined
Retroactive requirement	Undetermined

Table 16- SORNA & New York Juvenile Sex Offender Laws

<u>SORNA Juvenile Requirements</u>	<u>New York</u>
14 year-old age minimum for registration	
Failure to register	
Registration in jurisdiction of crime committed AND residence and where they attend school	
Three-Tiered system	
Opportunity to get removed from registry	
Not required to register if crime was lesser than sexual assault (e.g. statutory rape)	
In person registration x 3 mos	
Retroactive requirement	

Does not register juveniles.

Table 17- SORNA & North Dakota Juvenile Sex Offender Laws

<u>SORNA Juvenile Requirements</u>	<u>North Dakota</u>
14 year-old age minimum for registration	Yes- if offense is equal to or more than a felony sex offense
Failure to register	Undetermined
Registration in jurisdiction of crime committed AND residence and where they attend school	Yes
Three-Tiered system	Yes- offenders are categorized by risk assessment rather than offense
Opportunity to get removed from registry	Yes
Not required to register if crime was lesser than sexual assault (e.g. statutory rape)	Undetermined
In person registration x 3 mos	Yes
Retroactive requirement	Undetermined

Table 18- SORNA & Oklahoma Juvenile Sex Offender Laws

<u>SORNA Juvenile Requirements</u>	<u>Oklahoma</u>
14 year-old age minimum for registration	Yes
Failure to register	Yes
Registration in jurisdiction of crime committed AND residence and where they attend school	Yes
Three-Tiered system	Yes
Opportunity to get removed from registry	Yes- if at age 21 courts determine juvenile is not a risk
Not required to register if crime was lesser than sexual assault (e.g. statutory rape)	Undetermined
In person registration x 3 mos	Yes
Retroactive requirement	No

Table 19- SORNA & Oregon Juvenile Sex Offender Laws

<u>SORNA Juvenile Requirements</u>	<u>Oregon</u>
14 year-old age minimum for registration	SMART Report did not specify
Failure to register	Yes
Registration in jurisdiction of crime committed AND residence and where they attend school	Yes
Three-Tiered system	No
Opportunity to get removed from registry	Yes
Not required to register if crime was lesser than sexual assault (e.g. statutory rape)	Undetermined
In person registration x 3 mos	Yes
Retroactive requirement	Undetermined

Table 20- SORNA & Rhode Island Juvenile Sex Offender Laws

<u>SORNA Juvenile Requirements</u>	<u>Rhode Island</u>
14 year-old age minimum for registration	Any juvenile adjudicated delinquent under age of 18
Failure to register	Yes
Registration in jurisdiction of crime committed AND residence and where they attend school	Yes
Three-Tiered system	No
Opportunity to get removed from registry	No
Not required to register if crime was lesser than sexual assault (e.g. statutory rape)	Undetermined
In person registration x 3 mos	No- annually
Retroactive requirement	No

Table 21- SORNA & Utah Juvenile Sex Offender Laws

<u>SORNA Juvenile Requirements</u>	<u>Utah</u>
14 year-old age minimum for registration	Yes- specific crimes are registerable
Failure to register	Yes
Registration in jurisdiction of crime committed AND residence and where they attend school	Yes
Three-Tiered system	No- states' classifications abide by SORNA standards
Opportunity to get removed from registry	Undetermined
Not required to register if crime was lesser than sexual assault (e.g. statutory rape)	Yes
In person registration x 3 mos	No- all juveniles required to register
Retroactive requirement	Undetermined

Table 19- SORNA & Vermont Juvenile Sex Offender Laws

<u>SORNA Juvenile Requirements</u>	<u>Vermont</u>
14 year-old age minimum for registration	
Failure to register	
Registration in jurisdiction of crime committed AND residence and where they attend school	
Three-Tiered system	
Opportunity to get removed from registry	
Not required to register if crime was lesser than sexual assault (e.g. statutory rape)	
In person registration x 3 mos	
Retroactive requirement	

Does not register juveniles.

Table 23- SORNA & Virginia Juvenile Sex Offender Laws

<u>SORNA Juvenile Requirements</u>	<u>Virginia</u>
14 year-old age minimum for registration	SMART Report did not specify
Failure to register	Yes
Registration in jurisdiction of crime committed AND residence and where they attend school	Yes
Three-Tiered system	Yes
Opportunity to get removed from registry	
Not required to register if crime was lesser than sexual assault (e.g. statutory rape)	Yes
In person registration x 3 mos	No- every 6 months
Retroactive requirement	No

As noted in Table 19 above, Virginia potentially requires juveniles adjudicated delinquent of a sex crime over the age of thirteen to register. However, Virginia does not automatically register all juveniles, it is upon the court's discretion. Every offender is visited by law enforcement either at home or work every six months.

Table 24- SORNA & Washington Juvenile Sex Offender Laws

<u>SORNA Juvenile Requirements</u>	<u>Washington</u>
14 year-old age minimum for registration	SMART Report did not specify
Failure to register	Yes
Registration in jurisdiction of crime committed AND residence and where they attend school	Yes
Three-Tiered system	No
Opportunity to get removed from registry	Yes
Not required to register if crime was lesser than sexual assault (e.g. statutory rape)	Undetermined
In person registration x 3 mos	No
Retroactive requirement	No

Table 25- SORNA & Wisconsin Juvenile Sex Offender Laws

<u>SORNA Juvenile Requirements</u>	<u>Wisconsin</u>
14 year-old age minimum for registration	SMART Report did not specify
Failure to register	Yes
Registration in jurisdiction of crime committed AND residence and where they attend school	Yes
Three-Tiered system	Yes
Opportunity to get removed from registry	No
Not required to register if crime was lesser than sexual assault (e.g. statutory rape)	Undetermined
In person registration x 3 mos	Possibly- if required to register for life, it is mandatory registration every 90 days. Also, does not have to be in person.
Retroactive requirement	No

Analysis

The tables listed subsection R are a compilation of data gathered from all the states that have SMART Reports. This chapter will describe any common patterns or themes amongst the states. Also, this chapter will discuss any intriguing facts that I have become aware of while gathering the data.

non-compliant states. The first and most subjective theme in this analysis was the number of states that do not register juveniles. There are nine states, and they are: Alaska, Connecticut District of Columbia Georgia, Hawaii, Kentucky, Maine, Nebraska, New York, Vermont and West Virginia (Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking, 2015). A question that remains unanswered is why these states do not register juveniles for any sex offenses.

New York is in interesting state to review considering it does not comply with most of the guidelines of this federal law. It can be assumed that the state has its' own effective sex offender registration system in place, however, it completely ignores this law. The state has had plenty of time to cooperate with the federal government and start transitioning to comply with the guidelines, however, since 2006 it has only complied with three guidelines. The guidelines included Registering Retroactive Sex Offenders, Failure to Register Sex offenders, when a Jurisdiction has Information that a Sex Offender May have Absconded.

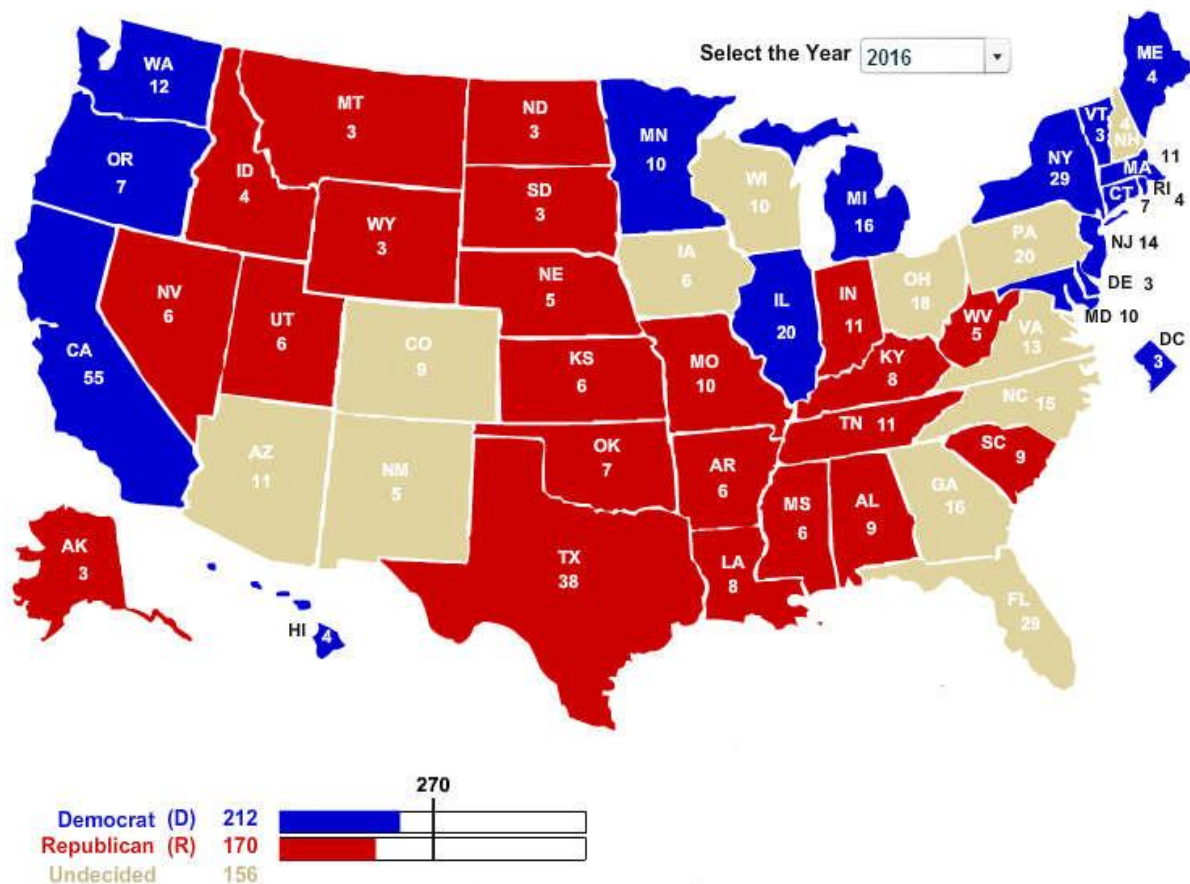
Throughout my analysis New York particularly stood out due to it's avoidance of this law. The federal government has warned that states will lose 10% of federal crime funds when found not in compliance with AWA, and since 2006 New York has done exactly that.

New York is a unique case because how it ignores complying with the AWA, but Maine is different. Maine's SMART Report revealed that it does comply with a majority of the

guidelines in the AWA. As far as New York goes, it is understandable that the state was not found in compliance because it does not comply with any of the guidelines, however, Maine does. The major guideline that Maine does deviate from is not registering juveniles for sex offenses, and was this one of the contributing factors as to why it was deemed not in compliance?

Nebraska is similar to Maine. The SMART Report for Nebraska revealed that it complies with almost all of the guidelines, besides registering juveniles. Nebraska and Maine are important states because they display a common pattern. Why are Nebraska and Maine found not in compliance when they comply with the guidelines more than some states that are deemed in compliance?

This common theme amongst these states keeps going back to juveniles. During my analysis I discovered that states deciding not to register juveniles for any sex offenses may be why these states are found not in compliance. An important question to consider is does it matter whether or not states comply with a majority of the guidelines, or if they do not register juveniles they are automatically not in compliance? This question is fueled by the extreme differences between New York and Maine and they are both found not in compliance. The major thing they have in common is not registering juveniles. This was not the only theme I became aware of throughout my analysis, it appeared that state's political standings may be a contributing factor to whether they comply with the AWA or not.



Political orientation. The table above was created in 2016, and is a demonstration of the states' and their political standing. States are either Democratic or Republican, but could also be considered swing states as well. Swing states change their political standing based on the presidential election. Republicans tend to be more conservative while Democrats favor government involvement (Jimenez, Pasztor, Chambers, & Pearlman Fujii, 2015)

My analysis includes a reference to the map above and reviews the political standing of the complying and non-complying states. There appears to be a pattern among the complying states. Of the seventeen states that were found in compliance with AWA, eleven of them are

Republican states. Only two of the complying states are Democrats, and the remaining three are swing states.

There is a clear pattern between the eleven states. The political standpoint of the state and its' compliance with the AWA may be related. Of the thirty-three non-complying states, ten of them are Democratic. Also, nine of the non-complying states are Republican. There are ten non-complying states that are democratic as well. As far as the non-complying states go, they are split rather evenly as far as political standpoints go. However, the eleven states that are republican and were deemed in compliance was difficult to ignore.

The Republican party has a get tough on crime approach. The party feels that convicted sex offenders should be banned from using particular websites. Also, the Republican party pushes for prosecution of anyone in possession of child pornography, which could also be considered sexting. This could be directly linked to Republican states who agreed with AWA and its punishments, and also juvenile registration (Republican National Committee, 2017).

Leniency and state discretion. A separate pattern among the states was the leniency upon the complying states and relieving juveniles from the registry. As mentioned in previous chapters, the federal government gave states room to utilize their own discretion, and a majority of them did in this guideline. While registering them initially is an issue, complying states have given opportunities to be removed from the registry. Some states are more lenient than others, while some do not offer it and require lifetime registration. This all depends on the state.

Another common pattern amongst the non-complying states is that they do not use the three-tiered system for classifying sex offenders. The AWA guidelines three-tiered system includes level one, two and three offenders. Seven of the thirty-three states do not use the three-tiered system. The states that do not comply still have to try and make an effort to do so, and

have had since 2006. The seven states include Idaho, Rhode Island, New Jersey, Indiana, Oregon, Washington and Utah.

These states have their own system in place to classify their offenders. Utah utilizes a system that has two classes of offenders. One offender is required to register for ten years, and the next level of offenders are required to register for life. A question that remains is why do these states not use the three-tiered system?

The falsified moral panic. Throughout this research project, I became increasingly aware of the influences behind the AWA and what drove it to be passed. In the 1990's, the rise in violent crime among juveniles brought about a moral panic throughout the country. Directly following, research was conducted on this topic and the findings kept the hysteria going. The research findings revealed that juveniles were going to continue to commit heinous and vicious crimes, and that it was going to get worse.

In Chapter 2, the Super-Predator Myth was introduced and discussed. This myth was the formal title for the feelings of panic the public was feeling. Prior research on adolescents having high chances of being rehabilitated was clearly ignored and not considered when legal changes were made to the juvenile justice system. The research findings and this myth led to more punitive punishments for adolescents. Although, these punishments became an issue later on.

The punitive punishments were fueled by emotions. This is because the research that predicted juvenile violent crime would continue to get worse essentially was wrong. Next came the passing of the AWA, which included juveniles ages 14 and over. The AWA ignored research on rehabilitating adolescents, and instead of moving away from harsh punishments, this federal sex offender law continued on with this trend. If research studies have been conducted showing

adolescents have great chances of changing as they mature and grow, then it leads me to be curious why a federal sex offender law include them in their targeted population.

The AWA and the juvenile justice system. It is important to emphasize on the original goal of the juvenile justice system, which was rehabilitation. It is explained how there were many shifts that took place, which may have had a major influence on why the juvenile justice system is being run the way it is currently. The AWA and its juvenile provisions are consistent with the punitive trend that began taking place in the 1990's, but not every state followed pursuit. There are states that are more lenient than others, especially the states that do not register juveniles' at all.

Why exactly some states like New York and Georgia do not register juveniles is unknown, however, it could be suspected that they support the research showing adolescents cognitive, emotional and mental are developmentally different than adults.

Political views and abstinence. As mentioned in Chapter 3, there is a lot of gray area in regards to when adolescents should be having sexual intercourse, if at all until marriage. The age of consent for sexual activity does vary state to state and there may external factors influencing this decision. Eleven out of the seventeen complying states are Republican. The Republican states tend to have a more punitive approach to crime, which may be why they register juveniles. After doing research on Republican views on adolescent sexuality, I discovered that abstinence is still a way of life, and it seems the only way. The official website of the Republican party stated that they have replaced Family Planning programs for adolescents and adults with education on how to avoid sexual activity (Republican National Committee, 2017).

The Republican party's standpoint is imperative in this thesis because it demonstrates how diverse standpoints can be on adolescent sexual behavior. The gray area of age of consent is

directly linked to the AWA, and how in some states statutory rape laws are harsher than others. The Republican party's standpoint is that adolescents engaging in sexual activity is against the norm, and is not supported at all. Essentially, the complying Republican states have been able to criminalize sexual behavior, and could use their political beliefs to support them (Republican National Committee, 2017).

To emphasize more on the abstinence until marriage standpoint, there were programs that were federally funded to promote this. There is a lot of debate on whether these programs are effective, and also if this is the type of education on sex that adolescents should receive. Also, another argument that stands is whether or not these programs should be in public schooling. In 2010, the approach to abstinence only shifted and now there are programs teaching on how to promote teenage pregnancy. This type of education supports the Republican Party's on avoiding sexual activity until marriage, and eluding teenage pregnancy (Stanger-Hall * Hall, 2011).

Policy Analysis

The policy analysis conducted on the AWA is broken down into five subcategories. Each subcategory has its own topic to investigate and has different questions to ask. This analysis was chosen because of the details it focuses on. It will also target specific topics that coincide with my analysis, and help in making any connections of patterns. This analysis is an extra tool to use besides my tables in Chapter 6 (Jimenez, Pasztor, Chambers, & Pearlman Fujii, 2015).

Part 1: the social problem addressed by the policy. The issues to be solved regarding the AWA is the mistreatment of adolescents. It is in hopes that future research will help the juvenile justice system restore and abide by its original reasons of creation. The history of the problem began in the 1900's when the violent crime rate rose. The super predator myth among

other beliefs felt that adolescents were violent people, and that they would continue to commit vicious crimes. As a result of this, juvenile offenders started being transferred to adult criminal court to be prosecuted. There was a more punitive approach to dealing with offenders. A huge cause of this issue is how research was and is still being ignored. The AWA is a clear mistreatment to adolescents. This federal sex offender law was passed with emotions and opinion, rather than facts and research findings.

Part 2: the policy objectives, value premises, expectations, and target populations.

The objectives of the AWA were to have a better system in place to track convicted sex offenders. The Wetterling Act was effective in ways, but sex crimes were still occurring. The AWA is a step above The Wetterling Act, with harsher guidelines and punishments. There are values included in this law, however, they are geared more towards the victim than the offender. Residency restrictions are an example of this. Some states enforce residency restrictions which may not allow convicted sex offenders to live near schools. Although, if a convicted sex offenders' crime did not involve children, then these restrictions are unnecessary.

What the policymakers expected as a result of this law remains unclear to me. The sex offender registry can be useful in some communities, however, it can do more harm than good. It appears that the AWA intended to make the public more aware of convicted sex offenders in communities. Also, this federal sex offender law was meant to have more punitive punishments, for all ages and not just juveniles.

The AWA is not aimed at any certain demographic. However, it is aimed at any convicted sex offender. The indirect targets of this federal law are any sex offender who is not a violent predator. This law has a "one size fits all" approach, which is not necessarily effective

when dealing with sex offenses. Not every sex offender is a threat to society or violent. The indirect targets of this law also face the unintended consequences.

Part 3: effects of the policy. The intended effects of the AWA were to have an improved system in place in comparison to the Wetterling Act. The sex offender registry is a tool that communities and law enforcement use in order to track and locate sex offenders. In my analysis of this law, it appeared this law was passed to comfort the public. Before the sex offender registry was created, if a child was kidnapped or murdered by a sex offender, there was no database that had the locations of all convicted sex offenders in certain areas. As a result of this, there are sex offender registries in every state. However, the AWA and the sex offender registry does not serve as a deterrence for sex crimes, especially those involving children.

The unintended effects of the AWA are tremendous and can do severe harm. There is a harsh perception of sex crimes in this country, that any offender who commits a sex crime is an awful person. However, not every sex crime has the same dynamic. The AWA is successful in some ways, however, there are new evolving crimes that this law has not caught up with yet. For example, sexting. When the AWA was passed in 2006, iPhones and smartphones were just making technological advancements, but they were not as sophisticated as they are today.

iPhones and smartphones allow many crimes to happen, including sex offenses. This allows the sending and receiving of sexually explicit images to occur, and not just for adults. Sexually curious teenagers who own smartphones are able to do this now, especially without their parents or guardians being aware. This is an unintended consequence and effect of the AWA because the laws pertaining to this sex crime have not caught up with research, or the advancements with smartphones.

A separate unintended effect of the AWA is that it is not open to research findings. There has been a recent increase in research regarding adolescents and their sex drive. Humans are sexually curious human beings, and for an extended period of time it was viewed that adolescents should not be engaging in sexual activity. Although, the recent research findings suggest otherwise. The AWA has not caught up with this research by having consensual sex between teenagers a registerable offense. This is a clear example of an unintended effect of the AWA, and also an unintended consequence.

Chapter 7: Conclusion

The policy analysis of the AWA originated with the goal of understanding how states' approached the juvenile sex offender laws. As any other research study, there were limitations and drawbacks. While this study did not discover why states' do not comply with this federal policy, there were extreme advancements in discovering patterns amongst the complying and non-complying states.

The juvenile justice system made noticeable changes, and most did not support the juveniles best interest, future and well-being. This directly coincided with the AWA, and have a major influence on the courts processes today. It is imperative to understand that these changes to the system are a key component to this thesis and that if not made, juvenile sex offenders may have been subject to different punishments via the AWA.

Whether it was a political standpoint or state discretion, there were some external factors that weighed in on whether states complied or not. It was interesting to discover that more than half of the country does not comply with this federal policy. A possible future research study may be to emphasize on asking more questions regarding the states that are not found in compliance.

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